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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/759,978	01/16/2004	Frederick W. MacDougall	81667	8332	
22242 75	90 08/04/2004		EXAM	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600			JOHNSON, STEPHEN		
			ART UNIT	PAPER NUMBER	
	CHICAGO, IL 60603-3406			3641	
			DATE MAILED: 08/04/2004	DATE MAILED: 08/04/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
	10/759,978	MACDOUGALL, FREDERICK W.			
Office Action Summary	Examiner	Art Unit			
	Stephen M. Johnson	3641			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).					
Status					
1)⊠ Responsive to communication(s) filed on <u>16 January 2004</u> .					
,	action is non-final.				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
4) Claim(s) 1-19 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) 1-19 are subject to restriction and/or election requirement.					
Application Papers					
9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.					
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some colon None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.					
Attachment(s)					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4)  Interview Summary Paper No(s)/Mail Da 5)  Notice of Informal P 6)  Other:				

Application/Control Number: 10/759,978 Page 2

Art Unit: 3641

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 2-3, drawn to a capacitor module, classified in class 361, subclass 328.
- II. Claims 4-19, drawn to a capacitor module in combination with a space frame, classified in class 361, subclass 306.2.
- 2. Claim 1 link(s) inventions I and II. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claim 1. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.
- 3. The inventions are distinct, each from the other because:
- 4. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as

Application/Control Number: 10/759,978 Page 3

Art Unit: 3641

claimed as evidenced by claims 3 and 4 (Bsp and ABbr). The subcombination has separate utility such as utility with a different space frame or absent a space frame.

5. Because these inventions are distinct for the reasons given above and have acquired a

separate status in the art as shown by their different classification and divergent subject matter,

restriction for examination purposes as indicated is proper.

6. Applicant is advised that the reply to this requirement to be complete must include an

election of the invention to be examined even though the requirement be traversed (37 CFR

1.143).

7. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158.

The examiner can normally be reached on Tuesday through Friday. If attempts to reach the

examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be

reached on 703-306-4198. Any inquiry of a general nature or relating to the status of this

application or proceeding should be directed to the receptionist whose telephone number is 703-

306-4177.

The fax phone number for the organization where this application or proceeding is

assigned is (703) 872-9326. The fax phone number for after final communications is (703) 872-

9327.

STEPHEN M. JOHNSON PRIMARY EXAMINER

Shull betier

Stephen M. Johnson Primary Examiner Art Unit 3641

SMJ